

RESOLUTION NO. R-12-15-02

**A RESOLUTION AMENDING RESOLUTION NO. R-9-15-5 A RESOLUTION
REGARDING ENGINEERING SERVICES CONTRACT BETWEEN THE VILLAGE
OF INDIAN HEAD PARK, ILLINOIS, AND STRAND ASSOCIATES, INC. FOR THE
FURNISHING OF
PROFESSIONAL ENGINEERING SERVICES**

**PASSED AND APPROVED BY
THE PRESIDENT AND BOARD OF TRUSTEES
THE 3RD DAY OF DECEMBER 2015**

RESOLUTION NO. R 12-15-02

A RESOLUTION AMENDING RESOLUTION NO. R-9-15-5 A RESOLUTION REGARDING ENGINEERING SERVICES CONTRACT BETWEEN THE VILLAGE OF INDIAN HEAD PARK, ILLINOIS, AND STRAND ASSOCIATES, INC. FOR THE FURNISHING OF PROFESSIONAL ENGINEERING SERVICES

WHEREAS, the corporate authorities of the Village of Indian Head Park, Illinois (hereinafter referred to as the “Village”), passed Resolution No. R-9-15-5 on October 8, 2015 and on further negotiation found it reasonable to honor a request from Strand Associates Inc. to amend its agreement for General On Call Municipal Engineering Services by deleting the following paragraphs from said Agreement.

16.3 VILLAGE may withhold any outstanding Compensation otherwise due to CONSULTANT pending final completion and acceptance of the Contracted Services and an accounting of related costs. In the event that the withheld amount exceeds the damages associated with CONSULTANT's default, VILLAGE shall promptly pay such excess funds to CONSULTANT. In the event the damages associated with CONSULTANT's default exceeds the amount withheld, the VILLAGE shall retain the entire amount that was withheld and CONSULTANT shall promptly pay VILLAGE the amount equal to the excess within 3 days of VILLAGE's written demand for such payment. And;

17.4 C 3 c 1) Preparing, approving, or failure to prepare or approve maps, drawings, opinions, report, surveys, change orders, designs or specifications;

2) Providing direction, instruction, supervision, inspection, engineering services or failing to provide them, if that is the primary cause of injury or damage.

NOW, THEREFORE, BE IT RESOLVED by the Board of Trustees of the Village of Indian Head Park, Cook County, Illinois, as follows:

Section 1: The facts and statements contained in the preambles to this resolution are found to be true and correct and are hereby adopted as part of this resolution.

Section 2: It is hereby determined that it is advisable, necessary and in the public interest that the Village enter into a revised Agreement with Strand Associates, Inc. for the furnishing of professional engineering services for the Village.

Section 3: The Village President shall be and is hereby authorized and directed to execute and the Village Clerk shall be and is hereby authorized and directed to attest on behalf of the Village the Amended Agreement for furnishing of professional engineering services for the Village, substantially in the form attached hereto marked as Exhibit "A" and made part hereof with such terms therein, consistent with this resolution as may be approved by the Village officials executing the same, their execution thereof shall constitute conclusive evidence of their approval of the same, subject to review and approval of the Agreement.

[The remainder of this page is left blank intentionally.]

Section 4: This resolution shall be in full force and effect upon its passage and approval in accordance with law.

ADOPTED this 3rd day of December 2015, pursuant to a roll call vote as follows:

AYES: _____

NAYS: _____

ABSENT: _____

ABSTENTION: _____

APPROVED by me this 3rd day of December 2015.

Tom Hinshaw, President of the
Village of Indian Head Park, Cook County, Illinois

ATTESTED and filed in my office,
this 3rd Day of December 2015.

Laurie Scheer, Clerk of the Village
of Indian Head Park, Cook County, Illinois

EXHIBIT A

General On-Call Municipal Engineering Services Contract

This contract ("Contract"), with an effective date of October 8, 2015, is by and between the Village of Indian Head Park ("VILLAGE") and Strand Associates, Inc. ("CONSULTANT").

In consideration of the mutual covenants and promises contained herein, the parties agree as follows:

1. SCOPE OF SERVICES

1.1 CONSULTANT shall perform any of the services set forth below as needed and as directed via an issued Task Order (Exhibit A) which is incorporated herein by reference, and CONSULTANT shall do so in strictly conformity with the terms and conditions of this Contract.

1.2 Engineering Design Services

- a. Project conceptual design, development, scoping, preliminary engineering, and cost estimating
- b. Transportation planning, traffic engineering and studies, transportation engineering and design
- c. Water system planning, studies, modeling, engineering and design
- d. Sanitary sewer system planning, studies, infiltration analysis, modeling, engineering and design
- e. Storm sewer system planning, studies, modeling, engineering and design
- f. Structural engineering and design
- g. Hydraulic analysis
- h. Preparation of designs, plans, specifications and estimates

1.3 Engineering Consulting Services

- a. Construction and engineering cost estimating and/or cost-benefit analysis, and constructability review.
- b. Value engineering.
- c. Assist with identifying possible funding sources for specific public improvement projects, and with applying for and securing such funding.
- d. Preparation and submittal of permits and assistance in obtaining approvals for various Federal, State and local regulatory agencies.
- e. Planning, coordination and implementation of public involvement, including preparation of displays and materials for public meetings, media inquiries, and presentation and staffing at public meetings and litigation.
- f. Motor Fuel Tax program development and management.
- g. Maintenance and supervision of the Village's National Pollution Discharge Elimination System permit for Phase II compliance.
- h. Coordinate Village drainage and flooding issues and compliance with the National Floodplain Insurance Program.
- i. Utility user rate studies and rate structure design.
- j. Assistance with ROW and easement acquisition.

- k. Assist Village Attorney with easement agreements, letters of credit, maintenance bonds, and similar engineering related documentation.
 - l. Be knowledgeable, abide by, and advise the Village regarding all relevant Federal, State, and local regulations including but not limited to OSHA, vehicular safety regulations, traffic control, etc.
- 1.4 Surveying Services
- a. Topographic surveys, boundary surveys, plats, and legal descriptions and exhibits of properties and easements
 - b. Construction staking and construction surveys
- 1.5 Construction Engineering Services
- a. Air testing, mandrel testing, flow monitoring, video monitoring, concrete testing, and other supportive services
 - b. Construction observation, with IDOT certified staff when required
 - c. Management of pay requests and change orders
 - d. Construction cost estimating and/or analysis, and constructability review
 - e. Preparation of as-built drawings.
- 1.6 Plan Review
- a. Compliance review of plans and specifications submitted by applicants, consultants, other jurisdictions, and utility companies for non-Village projects within the Village's jurisdiction - for conformance with applicable codes, regulations and generally accepted engineering practices and coordination with Village utilities.
 - b. Review of engineering calculations and permit applications for proposed developments
- 1.7 GIS / Mapping Services
- a. Development, maintenance and assistance with GIS data base / mapping system
 - b. Development and maintenance of paper based maps including maps for utility systems, zoning and land use, parks, and other municipal uses.
- 1.8 Clerical & Administrative Services
- a. Provide detailed descriptions of billable work on invoices sent to Village.
 - b. Provide verbal updates to the Village Administrator and Public Works Director on a mutually agreed to schedule on all current projects.
 - c. Provide written weekly status reports to the Village Administrator and Public Works Director on all current projects.
 - d. The firm's main point of contact and identified back-up be easily reachable and respond promptly, during work and after-hours emergencies, to inquiries by the Village President, Administrator, and Public Works Director.

2 TERM OF AGREEMENT

- 2.1 This Contract shall commence on the effective date stated above, and CONSULTANT is authorized to commence performance of any Task Orders issued as of that date.
- 2.2 This Contract terminates on April 30, 2019 unless terminated earlier pursuant to the terms and conditions herein, or renewed as authorized on subsection 2.3.
- 2.3 VILLAGE has the option to renew this Contract for two additional two year periods, for a total possibility of approximately eight years.

2.3 Time is of the essence with regard to the performance of the Contracted Services, and CONSULTANT shall complete any Contracted Services issued by task order within the term of this Agreement, specifically including but not limited to any intermediate milestones and phase submittals.

2.4 The issuance of a contract does not guarantee work with VILLAGE.

3 COMPENSATION AND PAYMENT

3.1 As compensation for the performance of the Contracted Services ("Compensation"), VILLAGE will pay CONSULTANT in the amount and manner set forth in the issued and accepted Task Order.

3.2 VILLAGE shall have no liability for any other expenses or costs incurred by CONSULTANT other than as expressly set forth in the issued and accepted Task Order.

3.3 Written application for payment for completed work shall be submitted by CONSULTANT to VILLAGE not more than once monthly on a date specified by VILLAGE.

3.4 Fees shall be guaranteed for at least the fee schedule in Exhibit "B".

3.5 Any requested fee changes must be submitted for acceptance/approval by the VILLAGE at least five months prior to the beginning of the Village fiscal year.

4 LIEN WAIVER

4.1 CONSULTANT shall promptly pay for all services, labor, materials and equipment used or employed by CONSULTANT in the performance of the Contracted Services and shall maintain all materials, equipment, structures, buildings, premises and property of VILLAGE free and clear of mechanic's or other liens.

4.2 CONSULTANT shall, if requested, provide VILLAGE with reasonable evidence that all services, labor, materials and equipment have been paid in full.

5 INDEPENDENT CONSULTANT

5.1 For purposes of this Contract, CONSULTANT is an independent CONSULTANT and shall not be deemed to be an employee, agent or joint venture of VILLAGE.

5.2 CONSULTANT shall be solely responsible for the means and methods for carrying out the Contracted Services.

6 COMPLIANCE WITH THE LAW

6.1 CONSULTANT shall comply with all applicable statutes, ordinances, codes, regulations, consent decrees, orders, judgments, rules, and all other requirements of any and all governmental or judicial entities that have jurisdiction over the Contracted Services ("Law").

7 PERMITS AND LICENSES

7.1 CONSULTANT will obtain, pay for, and maintain all permits and licenses, registrations, qualifications, and other governmental authorizations required by law that are associated with CONSULTANT's performance of Contracted Services.

8 STANDARD OF PERFORMANCE

- 8.1 CONSULTANT shall perform the Contracted Services in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances in the Chicago, IL metropolitan region.
- 8.2 CONSULTANT shall provide additional services as needed to correct any defects or deficiencies in the Contracted Services and shall bear all costs related to the correction of CONSULTANT's or its sub-consultants' defective or deficient performance at no additional cost to VILLAGE.

9 HEALTH & SAFETY

- 9.1 CONSULTANT shall take appropriate precautions to protect and shall be solely and continuously responsible for the health, safety and welfare associated with its employees, sub-consultants, agents and those person under the supervision and control of CONSULTANT with the performance of the Contracted Services.
- 9.2 CONSULTANT's employees, agents and the employees of its sub-consultants who perform the Contracted Services shall be experienced and properly trained to perform the Contracted Services under such conditions and shall take adequate precautions to protect human health and the environment in the performance of the Contracted Services.
- 9.3 In the event that CONSULTANT observes a potentially hazardous condition relating to the Contracted Services, CONSULTANT shall bring such condition to the attention of VILLAGE.

10 CONTACT WITH REGULATORY AGENCIES

- 10.1 Should CONSULTANT communicate directly with applicable governmental regulatory agencies with regard to the Contracted Services it shall refrain from representing any policy, position or decision as being the official policy, position or decision of VILLAGE, unless expressly stated by VILLAGE. Whenever the official policy, positions or decisions of VILLAGE are unstated or unknown to CONSULTANT, CONSULTANT shall direct inquiries from governmental regulatory agencies to VILLAGE for appropriate response.

11 QUALITY CONTROL PLANS

- 11.1 Notwithstanding any review by VILLAGE, CONSULTANT shall be responsible for the quality of the Contracted Services. When required by the Scope of Services to do so, CONSULTANT shall execute and submit to VILLAGE a quality control plan acceptable to VILLAGE that ensures the quality of its work products and activities. However, neither the submission of said plan, nor VILLAGE's lack of request for such a plan, replaces in any way CONSULTANT's responsibility for quality control, or for its work products and activities.

12 TASK ORDERS

- 12.1 This contract is a task order contract. VILLAGE will provide individual task orders to CONSULTANT similar in form to Exhibit A. The task order will define the work to be completed, the time for the work to be completed and the compensation to CONSULTANT for the task. Any task order that modifies any of the terms and

conditions of this Agreement shall only be effective for the work performed pursuant to the specific task order and shall not modify the terms and conditions of this Agreement for subsequent task orders.

13 SUSPENSION OF SERVICES

- 13.1 VILLAGE may, at any time, with or without cause, suspend all or any portion of the Contracted Services for a period of up to 90 days ("Suspended Services").
- 13.2 CONSULTANT shall immediately stop the performance of the Suspended Services, until such time as VILLAGE issues direction to CONSULTANT to resume the Suspended Services.
- 13.3 CONSULTANT shall take such action as is reasonably necessary to protect the Suspended Services and take such additional action as directed by VILLAGE.

14 FORCE MAJEURE

- 14.1 VILLAGE shall not be responsible for delay in the performance of its obligations under this Contract caused by a force majeure event. To the extent that Contracted Services are delayed by a force majeure event, CONSULTANT will be entitled to an equitable adjustment. For purposes of this Contract, a "force majeure event" is an occurrence or circumstance beyond the control of the claiming party and may include, but is not limited to extraordinary weather conditions, or other natural catastrophes, acts of God, war, riots, strikes, lockouts, or other industrial disturbances or acts of any governmental agencies.

15 TERMINATION FOR CONVENIENCE

- 15.1 All or part of this Contract may be terminated by VILLAGE for its convenience.
- 15.2 In any such event, CONSULTANT will be entitled to Compensation for Contracted Services performed up to the date of termination. CONSULTANT shall not be entitled to compensation or profit for Contracted Services not performed.

16 TERMINATION FOR DEFAULT

- 16.1 VILLAGE may at any time, by written notice, terminate the whole or any part of this Contract for default ("Termination for Default") upon failure of CONSULTANT to promptly cure such default in such time as VILLAGE may reasonably allow. For the purposes of this Contract, default includes but is not limited to:
 - A. Failure to strictly adhere to the terms and conditions of this Contract;
 - B. Failure to maintain progress so as to endanger proper performance of the Contracted Services; or
 - C. Failure to maintain adequate financial or legal capacity to properly complete the Contracted Services.
- 16.2 In the event of Termination for Default, CONSULTANT will be compensated for the Contracted Services properly performed prior to such termination for default.
- 16.3 If, after notice of Termination for Default, it is determined for any reason that CONSULTANT was not in default, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to Termination for Convenience.

17 INSURANCE

17.1 CONSULTANT shall procure and maintain, for the duration of the contract, insurance against claims for injuries to persons or damages to property, which may arise from or in conjunction with the performance of the work hereunder by CONSULTANT, his agents, representatives, employees or sub-consultants.

17.2 The samples attached to this RFQ are for illustrative purposes only. Submitted proofs of insurance must meet the requirements herein.

17.3 Minimum Scope of Insurance - Coverage shall be at least as broad as:

- A. Insurance Services Office Commercial General Liability Occurrence Form CG 0001 10 01 with VILLAGE named as additional insured on a primary and non-contributory basis, on forms at least as broad as the ISO Additional Insured Endorsements CG 20 10 10 01, CG 20 37 10 01, AND CG 20 01 04 13.
- B. Insurance Service Office Business Auto Liability coverage form number CA 00 01 10 01, Symbol 01 "Any Auto."
- C. Workers' Compensation as required by the Workers' Compensation Act of the State of Illinois and Employers' Liability insurance.
- D. If warranted by specific work performed, Owners and Contractors Protective Liability (OCP) policy with VILLAGE as insured.
- E. If warranted by specific work performed, Builder Risk Property Coverage with Village as loss payee, if not provided by general contractor.

17.4 Minimum Limits of Insurance

A. CONSULTANT shall maintain limits no less than the following:

- 1. Commercial General Liability: \$1,000,000 combined single limit per occurrence for bodily injury, and property damage and \$1,000,000 per occurrence for personal injury. The general aggregate shall be twice the required occurrence limit. Minimum General Aggregate shall be no less than \$2,000,000 or a project-contract specific aggregate of \$1,000,000.
- 2. Business Automobile Liability: \$1,000,000 combined single limit per accident for bodily injury and property damage.
- 3. Workers' Compensation and Employers' Liability: Workers' Compensation Coverage with statutory limits and Employers' Liability limits of \$500,000 per accident.
- 4. If warranted by specific work performed, Owners and Contractors Protective Liability (OCP); \$1,000,000 combined single limit.
- 5. If warranted by specific work performed, Builder's Risk: Shall insure against "All Risk" of physical damage, including water damage (flood and hydrostatic pressure not excluded), on a completed replacement cost basis. Required if not provided by general contractor.

B. Deductibles and Self-Insured Retentions

- 1. Any deductibles or self-insured retentions must be declared to and approved by VILLAGE. Should VILLAGE determine that either renders the insurance inadequate, at the option of VILLAGE, either; the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects VILLAGE, its

officials, agents, employees and volunteers; or CONSULTANT shall procure a bond guaranteeing payment of losses and related investigation, claim administration and defense expenses.

C. Other Insurance Provisions - The policies are to contain, or be endorsed to contain, the following provisions:

1. General Liability and Automobile Liability Coverages

- a. VILLAGE, its officials, agents, employees and volunteers are to be covered as additional insured as respects: liability arising out of CONSULTANT's work, including activities performed by or on behalf of CONSULTANT; products and completed operations of CONSULTANT; premises owned, leased or used by CONSULTANT; or automobiles owned, leased, hired or borrowed by CONSULTANT. The coverage shall contain no special limitations on the scope of protection afforded to VILLAGE, its officials, agents, employees and volunteers.
- b. CONSULTANT's insurance coverage shall be primary and non-contributory as respects VILLAGE, its officials, agents, employees and volunteers. Any insurance or self-insurance maintained by VILLAGE, its officials, agents, employees and volunteers shall be excess of CONSULTANT's insurance and shall not contribute with it.
- c. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to VILLAGE, its officials, agents, employees and volunteers.
- d. CONSULTANT's insurance shall contain a Severability of Interests/Cross Liability clause or language stating that CONSULTANT's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's ability.
- e. If any commercial general liability insurance is being provided under an excess or umbrella liability policy that does not "follow form," then CONSULTANT shall be required to name VILLAGE, its officials, agents, employees and volunteers as additional insured's on a primary and non-contributory basis.
- f. All general liability coverages shall be provided on an occurrence policy form. Claims-made general liability policies will not be accepted.

2. Workers' Compensation and Employers' Liability Coverage

- a. The CONSULTANT'S insurer shall agree to waive all rights of subrogation against VILLAGE, its officials, agents, employees and volunteers for losses arising from work performed by CONSULTANT for VILLAGE.
- b. CONSULTANT agrees to a waiver of any Kotecki limitation in relation to work performed by CONSULTANT's employees on VILLAGE projects.

3. Professional Liability

- a. Professional liability insurance with limits not less than \$1,000,000 each claim with respect to negligent acts, errors and omissions in connection with professional services to be provided under the contract, with a deductible not to exceed \$50,000 without prior written approval.
- b. If the policy is written on a claims-made form, the retroactive date must be equal to or preceding the effective date of the contract. In the event the policy is cancelled, non-renewed or switched to an occurrence form,

CONSULTANT shall be required to purchase supplemental extending reporting period coverage for a period of not less than three (3) years.

- c. Coverage (architect, engineer, surveyor, consultant): Professional liability insurance that provides indemnification and defense for injury or damage arising out of acts, errors, or omissions in providing professional services, but not limited to the following:

4. All Coverages

- a. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, cancelled, reduced in coverage or in limits except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to VILLAGE. Village shall be named as Cancellation Notice Recipient.

D. Acceptability of Insurers

- 1. Insurance is to be placed with insurers with a Best's rating of no less than A-, VII and licensed to do business in the State of Illinois.

E. Verification of Coverage

- 1. Other than for Professional Liability Insurance, CONSULTANT shall furnish VILLAGE with certificates of insurance naming VILLAGE, its officials, agents, employees and volunteers as additional insured's on a primary and non-contributory basis , and with original endorsements affecting coverage required by this clause.
- 2. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The endorsements shall be on ISO Additional Insured Endorsement forms CG 20 10 10 01, CG 20 37 10 01 AND CG 20 01 04 13, and are to be received and approved by VILLAGE before any work commences. Other additional insured endorsements may be considered, if they provide a scope of coverage at least as broad as the coverage stated in the above endorsements. VILLAGE reserves the right to request full certified copies of the insurance policies and endorsements.

F. Subcontractors

- 1. CONSULTANT shall include any sub consultants as insured's under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.

18 INDEMNITY

- 18.1 To the fullest extent permitted by law, CONSULTANT hereby agrees to defend, indemnify and hold harmless VILLAGE, its officials, agents and employees, against all injuries, deaths, loss, damages, claims, patent claims, suits, liabilities, judgments, cost and expenses, which may in anywise accrue against VILLAGE, its officials, agents and employees, to the extent that any such loss is caused by the negligent act, error or omission of CONSULTANT, or anyone for whom CONSULTANT is legally liable, and CONSULTANT shall, at its own expense, appear, defend and pay all charges of attorneys and all costs and other expenses arising therefore or incurred in connections therewith, and, if any judgment shall be rendered against VILLAGE, its officials, agents

and employees, in any such action, CONSULTANT shall, at its own expense, satisfy and discharge the same.

- 18.2 CONSULTANT is not obligated to indemnify VILLAGE in any manner whatsoever for VILLAGE's own negligence. In the event claims, losses, damages or expenses are caused by the joint or concurrent negligence of both of CONSULTANT and VILLAGE, they shall be borne by each party in proportion to each party's negligence.
- 18.3 CONSULTANT expressly understands and agrees that any performance bond or insurance policies required by this contract, or otherwise provided by CONSULTANT, shall in no way limit the responsibility to indemnify, keep and save harmless and defend VILLAGE, its officials, agents and employees as herein provided.
- 18.4 CONSULTANT further agrees that, to the extent that money is due CONSULTANT pursuant to this Agreement, VILLAGE may, in its sole and absolute discretion, to protect itself against said loss until such claims, suits, or judgments, may retain such money until such time that all claims, suits or judgments have been settled or discharged and evidence to that effect has been furnished to the satisfaction of VILLAGE.

19 INFRINGEMENT

- 19.1 CONSULTANT shall not infringe upon any intellectual property (including but not limited to patents, trademarks or copyrights) ("Intellectual Property") in the performance of this Contract. In the event that CONSULTANT is alleged to have infringed upon such Intellectual Property, in addition to CONSULTANT's obligations under the Indemnity provisions above, CONSULTANT shall, at the sole discretion of VILLAGE and at CONSULTANT's sole expense:
 - A. Procure for VILLAGE the right to continue using the infringing subject matter;
 - B. Replace or modify the infringing subject matter so that it becomes non-infringing but still complies with the requirements of the Contract; or
 - C. Reimburse VILLAGE for all payments made to CONSULTANT relating to or impacted by the infringing material and all costs incurred by VILLAGE resulting from such infringement.

20 DISPUTES

- 20.1 Any dispute related to this Contract shall be submitted to a panel consisting of at least one representative of each party who shall have the authority to enter into an agreement to resolve the dispute. The panel may meet or may conduct its discussions by telephone or other electronic means. In the event that the panel is unable to reach a mutual resolution of the dispute, or has failed to convene within two weeks of the request of either party, the matter may be referred by either party to a court of appropriate jurisdiction.
- 20.2 All communications between the parties or their representatives in connection with the attempted resolution of any dispute shall be confidential and deemed to have been delivered in furtherance of dispute settlement and shall be exempt from discovery and production, and shall not be admissible in evidence whether as an admission or otherwise, in any arbitration, judicial or other proceeding for the resolution of the dispute.
- 20.3 Pending any final judicial decision or settlement, CONSULTANT shall at the direction of VILLAGE, proceed diligently with the Contracted Services.
- 20.4 In the event that either party brings any suit, action or claim against the other for enforcement of this Agreement, the prevailing party in such suit, action or claim shall be entitled to its cost, including attorneys' fees incurred in such suit, action or claim.

21 NOTICE

- 21.1 Any notice or communication required or permitted by this Contract shall be deemed sufficiently given if in writing and when delivered personally or upon receipt of registered or certified mail, postage prepaid with the U.S. Postal Service, and addressed as follows:

IF TO VILLAGE:

Village of Indian Head Park
Attn: Village Administrator
201 Acacia Drive
Indian Head Park, Illinois 60525-4498

IF TO CONSULTANT:

Strand Associates, Inc.
Attn: Michael Waldron
1170 S. Houbolt Rd.
Joliet, IL 60431

or to such other address as the party to whom notice is to be given has furnished by the receiving party in writing.

22 REMEDIES

- 22.1 No remedies or rights conferred upon VILLAGE by this Contract are intended to be exclusive of any remedy or right provided by law or equity, but each shall be

cumulative and shall be in addition to every other remedy or right given herein or now or hereafter existing at law or in equity.

23 CONFIDENTIAL INFORMATION

- 23.1 Any information or data disclosed by VILLAGE or otherwise developed or obtained under this Contract and deemed by VILLAGE to be proprietary or confidential shall be treated by CONSULTANT as such.
- 23.2 CONSULTANT shall not disclose Confidential Information without VILLAGE's written consent. Those persons under CONSULTANT's control shall not use Confidential Information for any purpose other than for the proper performance of the Contracted Services.
- 23.3 CONSULTANT's obligations under this Article shall not apply to Confidential Information that is:
- A. In the public domain without breach of this Contract;
 - B. Developed independently by CONSULTANT;
 - C. Received by CONSULTANT on a non-confidential basis from others who had a right to disclosure such Confidential Information; or
 - D. Required to be disclosed by Law, but only after actual prior written notice has been received by VILLAGE and VILLAGE has had a reasonable opportunity to protect disclosure of such Confidential Information.
- 23.4 CONSULTANT shall ensure that the foregoing obligations of confidentiality and use also extend and bind the employees and agents of CONSULTANT and its subconsultants who have been provided access to the Confidential Information under this Contract.

24 RIGHTS IN DATA

- 24.1 CONSULTANT agrees that VILLAGE, by way of payment for services performed by CONSULTANT, retains rights in all data and information disclosed, obtained, developed or produced by CONSULTANT under this Contract ("Data"), and in all formats, including electronic. Such Data shall include, but not be limited to, field inspection reports (Consultant's as well as sub-consultants,) engineering laboratory test results and any such other Data as Village requests that is obtained by Consultant in the course of performing work for the Village.
- 24.2 CONSULTANT shall promptly deliver any such Data to VILLAGE as requested by VILLAGE. CONSULTANT shall be fully responsible for the care, protection and preservation of the Data until such delivery. CONSULTANT may retain copies of the Data for CONSULTANT's archives subject to CONSULTANT's continued compliance with the provisions of this Article.
- 24.3 CONSULTANT agrees not to assert, or to allow persons performing under CONSULTANT's control to assert, any rights to Data that would infringe upon VILLAGE's rights, including establishing any claim under design, patent or copyright laws.
- 24.4 Except as otherwise provided in this Contract, said Data shall be delivered to VILLAGE without additional cost to VILLAGE.

25 COMPLIANCE WITH FREEDOM OF INFORMATION ACT REQUEST

25.1 The Illinois Freedom of Information Act (FOIA), effective January 1, 2010, and as amended from time to time, adds a new provision to Section 7 of the Act which applies to public records in the possession of a party with whom VILLAGE has contracted. VILLAGE will have only a very short period of time from receipt of a FOIA request to comply with the request, and there is a significant amount of work required to process a request including collating and reviewing the information. The undersigned acknowledges the requirements of FOIA and agrees to comply with all requests made for public records (as that term is defined by Section 2(c) of FOIA) in CONSULTANT's possession but not in VILLAGE's, and to provide said requested public records to VILLAGE within two (2) business days of the request being relayed by VILLAGE.

26 SURVIVAL OF TERMS

26.2 Articles on Indemnity, Confidential Information and Rights in Data shall survive termination of this Contract.

27 ASSIGNMENT AND CONTRACTING

27.2 CONSULTANT shall not assign or contract this Contract nor any rights or obligations herein without the prior written consent of VILLAGE. In the event this Contract is assigned or contracted by CONSULTANT, CONSULTANT shall remain responsible to VILLAGE for the proper performance of CONSULTANT's obligations under this Contract.

27.3 The terms and conditions of CONSULTANT's contracts or assignments under this Contract shall, at a minimum, require CONSULTANT or assignee to fully comply with this Contract unless otherwise authorized in writing by VILLAGE.

28 AMENDMENT AND WAIVER

28.2 This Contract may only be modified by written amendment, executed by both parties. Either party may waive any provision of this Contract to the extent such provision is for the benefit of such waiving party.

28.3 No action taken pursuant to this Contract shall be deemed to constitute a waiver by that party of its or the other party's compliance with any representations or warranties or with any other provision of this Contract.

28.4 No waiver by either party of a breach of any provision of this Contract shall be construed as a waiver of any subsequent or different breach, and no forbearance by a party to seek a remedy for noncompliance or breach by the other party shall be construed as a waiver of any right or remedy with respect to such noncompliance or breach.

29 SEVERABILITY

29.2 The invalidity or unenforceability of any particular provision of this Contract shall not affect the other provisions, and this Contract shall be construed in all respects as if any invalid or unenforceable provision were omitted.

30 GOVERNING LAW

30.2 The validity, construction and performance of this Contract and all disputes between the parties arising out of or related to this Contract shall be governed by the laws, without regard to the law as to choice or conflict of law, of the State of Illinois.

31 VENUE, JURISDICTION AND SERVICE OF PROCESS

- 30.1 The parties agree that any suit, action or proceeding arising out of or related to this Contract shall be instituted in the Illinois Circuit Court for Cook County, Illinois, and each party irrevocably submits to the jurisdiction of that court and waives any and all objections to jurisdiction or venue that it may have under the laws of the State of Illinois or otherwise in those courts in any such suit, action, or proceeding.

32 NO COLLUSION

- 32.2 CONSULTANT represents and certifies that CONSULTANT is not barred from contracting with a unit of state or local government as a result of
- A. A delinquency in the payment of any tax administered by the Illinois Department of Revenue unless CONSULTANT is contesting, in accordance with the procedures established by the appropriate revenue act, its liability for the tax or the amount of the tax, as set forth in Section 11-42. 1-1 et seq. of the Illinois Municipal Code, 65 ILCS 5/11-42. 1-1 et seq.; or
 - B. A violation of either Section 33E-3 or Section 33E-4 or Article 33E of the Criminal Code of 1961, 720 ILCS 5/22E-1 et seq.
- 32.3 CONSULTANT represents that this Contract is made without collusion with any other person, firm, or corporation.
- 32.4 If at any time it shall be found that CONSULTANT has, in procuring this Contract, colluded with any other person, firm, or corporation, then CONSULTANT shall be liable to VILLAGE for all loss or damage that VILLAGE may suffer, and this Contract shall, at VILLAGE's option, be null and void.

33 CHANGE ORDERS

- 33.2 VILLAGE may, from time to time, order modifications or changes in the scope of the Contracted Services as defined in the individual Task Orders, doing so by written change order. In addition, Change Orders may be requested by CONSULTANT based upon material changes to the Contracted Services. Change Orders shall consist of additions to, deletions from or other revisions to the Contracted Services. Within 10 days after the date of such Change Order or material change, and in any event prior to the commencement of such revised Contracted Services, CONSULTANT shall notify VILLAGE in writing if CONSULTANT requests a change in the Compensation and/or Project Schedule and shall clearly state CONSULTANT's justification for the Change Order. If approved by VILLAGE, an equitable adjustment will be made as appropriate.
- 33.3 FAILURE OF CONSULTANT TO COMPLY WITH THE REQUIREMENTS OF THIS ARTICLE SHALL CONSTITUTE A WAIVER OF SUCH CLAIM BY CONSULTANT.
- 33.4 Failure of the parties to agree on whether the Change Order constitutes a compensable change to the Compensation or should result in a change in the Project Schedule shall be subject to the Disputes provisions of this Contract. CONSULTANT shall diligently proceed with the Contracted Services as directed by VILLAGE, including any directed changes or potential changes in the Contracted Services, pending resolution of such Dispute.

34 ENTIRE AGREEMENT

34.2 This Contract embodies the entire agreement and understanding between the parties pertaining to the subject matter of this Contract, and supersedes all prior agreements, understandings, negotiations, representations and discussions, whether verbal or written, of the parties, pertaining to that subject matter.

34.3 The attached Task Order Sample Format is hereby made part of this agreement:

35 SIGNATURES

The undersigned parties have caused this Contract to be executed effective on the 8th day of October, 2015 by their duly designated officials, as authorized by their respective governing bodies.

VILLAGE OF INDIAN HEAD PARK, ILLINOIS

CONSULTANT STRAND ASSOCIATES, INC.

BY: Tom Hinshaw
TITLE: Village President

BY: Phillip E. Budde
TITLE: President

Date: _____

Date: _____

ATTEST: _____

ATTEST: _____

BY: Laurie Scheer, Village Clerk

BY: Matthew Richards, Secretary

POLICY NUMBER:

COMMERCIAL GENERAL LIABILITY
CG 20 10 10 01

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**ADDITIONAL INSURED – OWNERS, LESSEES OR
CONTRACTORS – SCHEDULED PERSON OR
ORGANIZATION**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name of Person or Organization:

(If no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement.)

A. Section II – Who Is An Insured is amended to include as an insured the person or organization shown in the Schedule, but only with respect to liability arising out of your ongoing operations performed for that insured.

B. With respect to the insurance afforded to these additional insureds, the following exclusion is added:

2. Exclusions

This insurance does not apply to "bodily injury" or "property damage" occurring after:

- (1) All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the site of the covered operations has been completed; or
- (2) That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.

SAMPLE

POLICY NUMBER:

COMMERCIAL GENERAL LIABILITY
CG 20 37 10 01

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**ADDITIONAL INSURED – OWNERS, LESSEES OR
CONTRACTORS – COMPLETED OPERATIONS**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name of Person or Organization:
Location And Description of Completed Operations:
Additional Premium:

(If no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement.)

Section II – Who Is An Insured is amended to include as an insured the person or organization shown in the Schedule, but only with respect to liability arising out of "your work" at the location designated and described in the schedule of this endorsement performed for that insured and included in the "products-completed operations hazard".

SAMPLE

TASK ORDER SAMPLE FORMAT

In accordance with the General On-Call Municipal Engineering Services Contract, dated October 8, 2015 ("Contract") between the Village of Indian Head Park, Illinois ("VILLAGE") and Strand Associates, Inc. ("CONSULTANT"), CONSULTANT is hereby authorized by VILLAGE to perform the following task order as follows:

Project Name / Task:

Brief Description:

Contracted Services / Scope of Work:

Schedule / Time of Performance:

Consultant's Compensation: *(express as lump sum monthly retainer, hourly not-to-exceed, project lump sums, % of construction, etc.)*

A fully executed task order as a fax or PDF document shall be considered equal to the original. All terms and conditions of the General On-Call Municipal Engineering Services Contract not modified by this Task Order shall remain in full force and effect and are incorporated in this Task Order as if fully set forth herein.

VILLAGE OF INDIAN HEAD PARK, ILLINOIS

**CONSULTANT STRAND
ASSOCIATES, INC.**

BY: Tom Hinshaw
TITLE: Village President

BY: Phillip E. Budde
TITLE: President

Date: _____

Date: _____

ATTEST: _____

ATTEST: _____

BY: Laurie Scheer, Village Clerk

BY: Matthew Richards,

Secretary